HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, May 03, 2017
85th Legislature, Number 62
The House convenes at 10 a.m.
Part Three

Eighty-three bills and two joint resolutions are on the daily calendar for second-reading consideration today. Those analyzed or digested in Part Three of today's *Daily Floor Report* are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 62

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Wednesday, May 03, 2017
85th Legislature, Number 62
Part 3

SUBJECT: Adding missing persons with Alzheimer's disease to Silver Alert system

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

1 absent — P. King

WITNESSES: For — Melissa Sanchez, Alzheimer's Association; Terrence Sommers, Law Enforcement; McKenzie Henry; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Dennis Borel, Coalition of Texans with Disabilities; William Mills, SAT; Micah Harmon, AJ Louderback, Ricky Scaman, and Henry Trochesset, Sheriffs' Association of Texas; Mitch Landry, Texas Municipal Police Association (TMPA))

Against — None

On — (*Registered, but did not testify*: Nim Kidd, Texas DPS - Texas Division of Emergency Management)

BACKGROUND: Government Code, ch. 411, subch. M governs the Silver Alert, a system used to notify the public of a missing senior citizen with a diagnosed mental condition. When a senior citizen goes missing, activation of the system requires that the following information be verified:

- the missing adult is 65 years of age or older;
- his or her location is unknown;
- the senior citizen has an impaired mental condition; and
- the disappearance poses a credible threat to the senior citizen's health and safety.

Concerns have been raised that missing persons who have been diagnosed with early onset Alzheimer's disease currently do not qualify for activation of the Silver Alert system, as these patients typically are younger than 65

years old.

DIGEST:

HB 2639 would add a missing person with Alzheimer's disease, regardless of age, to the list of individuals for whom the Silver Alert system could be activated.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

A companion bill, SB 1192 by Buckingham, was reported favorably from the Senate Criminal Justice Committee on April 20.

SUBJECT: Restructuring health benefits for retired school employees

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 24 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Cosper, S. Davis, Dean, Giddings, Gonzales, González, Howard, Koop, Miller, Muñoz, Perez, Phelan, Raney, Roberts, J. Rodriguez, Sheffield, Simmons, VanDeaver, Walle

0 nays

3 absent — Dukes, Rose, Wu

WITNESSES: For — Timothy Lee, Texas Retired Teachers Association

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings)

On — Ted Melina Raab, Texas AFT (American Federation of Teachers); Monty Exter, The Association of Texas Professional Educators; Katrina Daniel and Brian Guthrie, Teacher Retirement System; (*Registered, but did not testify*: Ann Fickel, Texas Classroom Teachers Association; Portia Bosse, Texas State Teachers Association)

BACKGROUND: Texas lawmakers created TRS-Care in 1985 to provide health insurance coverage for retired public school employees.

The 84th Legislature in 2015 created a joint interim committee to study TRS-Care and make recommendations to sustain the plan. The committee's report recommended changing coverage for retirees under the age of 65, who the report says are driving up costs because they are not eligible for Medicare.

DIGEST: CSHB 3976 would change enrollment, premium, and benefit requirements for certain TRS-Care enrollees.

Premiums. CSHB 3976 would require a retiree who had coverage under a

health benefit plan offered under TRS-Care to pay a monthly contribution as determined by the TRS Board of Trustees. The bill would eliminate the requirement for TRS to provide a premium-free health plan to retirees. Retirees would not be required to pay a monthly contribution until the year 2020 if they:

- had taken a disability retirement under the Teacher Retirement System of Texas (TRS) on or before January 1, 2017;
- were receiving disability retirement benefits from TRS; and
- were not eligible for Medicare.

Funding. The state would contribute to the TRS-Care program fund 1.25 percent, rather than one percent of the salary of each active employee. The bill would remove the requirement in statute for contributions to be paid from the general revenue fund.

The state, through TRS, would contribute from money in the TRS-Care program fund, an amount prescribed by the general appropriations act to cover all or part of the cost for each retiree, surviving spouse, and surviving dependent child enrolled in a TRS-Care plan. The TRS could spend a part of the money received for TRS-Care to offset part of the costs for dependent coverage if TRS-Care was projected to remain financially solvent during the currently funded biennium.

The total costs for the operation of TRS-Care would be shared among the surviving spouses, surviving dependent children, the state, the public schools, the active employees, and the retirees in the manner prescribed by the general appropriations act. The TRS Board of Trustees would establish and collect payments for the share of these total costs. The board could consider various factors in establishing the payments, including an enrollee's Medicare status, health benefit plan election, and dependent coverage, rather than a retiree's years of service credit.

Authorization for deductions. To choose coverage under a TRS-Care health benefit plan, the retiree would have to give authorization in writing to deduct the amount of the contribution from the retiree's monthly annuity payment. The contribution would be deducted in the manner and form determined by the TRS Board of Trustees.

Dependents, surviving spouses, and surviving children. A retiree, dependent, surviving spouse, or surviving dependent child who was not eligible to enroll in Medicare would be eligible to enroll in a high deductible health plan offered under TRS-Care, subject to certain eligibility requirements, but would not be eligible to enroll in another TRS-Care plan. A retiree, dependent, surviving spouse, or surviving dependent child who was Medicare-eligible also would be eligible to enroll in a Medicare Advantage plan or a Medicare prescription drug plan offered under TRS-Care, subject to certain eligibility requirements, but would not be eligible to enroll in another health benefit plan offered under TRS-Care, except if TRS made another health benefit plan available.

Retirees in TRS-Care would be entitled to secure coverage for their dependents under the provisions of the bill or any other law, including requirements established by TRS. Surviving spouses who chose to retain or obtain TRS-Care coverage for the themselves or their dependents would be required to pay a monthly contribution, as determined by the TRS Board of Trustees. A surviving spouse would have to authorize in writing the contribution to be deducted from their monthly annuity payment. A surviving dependent child who had coverage under TRS-Care also would pay a monthly contribution in the manner established by the TRS Board of Trustees.

Coverage requirements. A Medicare Advantage plan and a Medicare prescription drug plan under the bill would be exempt from requirements to provide coverage for prostate screenings, disease management services, and prior authorization requirements for certain drugs. The bill would require a health benefit plan offered under the group program, except a Medicare Advantage plan or a Medicare prescription drug plan to cover preexisting conditions. A retiree who applied for coverage during an enrollment period could not be denied coverage in a health benefit plan for which the retiree was eligible unless TRS found that the retiree defrauded or attempted to defraud the group program.

Enrollment and enrollment period. An individual enrolled in a TRS-Care plan may remain enrolled in that plan as long as the person is eligible. If an individual became ineligible, TRS would enroll the

individual in a health benefit plan for which the person was eligible, if any.

A retiree eligible for coverage under TRS-Care could select for themselves and their eligible dependents coverage for which each of those individuals was eligible on any date that was on or after the date the retiree retired and on or before the 90th day after that date. The enrollment period also would extend from the date the retiree became 65 years old to a date that the TRS Board of Trustees could set by rule.

Optional benefits payments. Under the bill, optional benefits payments would no longer be exempt from execution, attachment, garnishment or any other process.

Repealed provisions. The bill would repeal provisions of the Insurance Code addressing plan variation according to Medicare coverage, contribution payments by surviving spouses, cost-sharing under an optional group health benefit plan, a limitation on enrollment in an optional group health benefit plan, additional enrollment periods, collection of a certain premium amount, the participation contribution for an optional plan, determination of total costs for TRS-Care cost sharing, and payment ranges for retirees.

Effective date. The bill would take effect September 1, 2017, and would apply only to health benefits provided under TRS-Care beginning with the 2018 plan year. The plan year before 2018 would be governed by the law as it existed immediately before the bill's effective date and the law would be continued in effect for that purpose.

NOTES: The Legislative Budget Board's fiscal note estimates the bill would have a negative impact of $162.1 million through the fiscal 2018-19 biennium.

A companion bill, SB 788 by Huffman, was reported favorably from the Senate State Affairs Committee on April 6..

SUBJECT: Allowing foster parents to intervene in certain lawsuits

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Dale, Biedermann, Cain, Moody, Schofield, Thierry

0 nays

WITNESSES: For — Will Francis, National Association of Social Workers-Texas Chapter; Judy Powell, Parent Guidance Center; Meagan Corser, Texas Home School Coalition; Brandon Logan, Texas Public Policy Foundation; (*Registered, but did not testify*: Katherine Barillas, One Voice Texas; Johana Scot, Parent Guidance Center; Andrew Homer, Texas CASA; Lee Nichols, TexProtects)

Against — None

BACKGROUND: Family Code, sec. 102.004 allows grandparents and certain other individuals with a connection to a child to intervene in suits affecting the parent-child relationship.

Some have suggested that foster parents should be permitted to have more influence in conservatorship suits, given the central role they may play in the life of a child who is the subject of the suit.

DIGEST: CSHB 1410 would allow foster parents to intervene in suits affecting the parent-child relationship if a child had been placed in the home by the Department of Family and Protective Services for at least 12 months and it had not been more than 90 days since the placement ended when the intervention was filed.

The bill would take effect September 1, 2017, and would apply only to original lawsuits filed on or after that date.

SUBJECT: Dedicating certain traffic fines to emergency medical air transportation

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 22 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Cosper, S. Davis, Dean, Giddings, Gonzales, González, Howard, Koop, Muñoz, Perez, Phelan, Raney, Roberts, Rodriguez, Sheffield, VanDeaver, Walle

0 nays

5 absent — Dukes, Miller, Rose, Simmons, Wu

WITNESSES: For — Timothy Pickering, Air Evac Lifeteam; (*Registered, but did not testify*: Patrick Brennan, Megan Grattan, Air Evac Lifeteam; Shawn Salter, Air Methods Corporation; Jake Posey, Bell Helicopter; Bill Lewis, Mothers Against Drunk Driving; Traci Fox, Lora Baumgartner, David Giles, Greg Helton, Lee Hinrichsen, Laura Price, Dustin Ross, Graham Pierce, PHI Air Medical, LLC; Joseph Green, Travis County Commissioners Court; Raif Calvert; Jay Propes)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings)

On — (*Registered, but did not testify*: Jane Guerrero, Department of State Health Services; Pam McDonald, Health and Human Services Commission)

BACKGROUND: Transportation Code, sec. 542.4031 requires a $30 court fee, known as a state traffic fine, to be assessed upon conviction of a traffic offense under Transportation Code, Title 7, Subtitle C.

A local jurisdiction may keep up to 5 percent of the fine, with the rest going to the state. Of the amount going to the state, 33 percent is dedicated to the Trauma Facility and Emergency Services Fund established by Health and Safety Code, sec. 780.003, with the other 67 percent remaining as undedicated general revenue.

DIGEST:

HB 935 would dedicate 17 percent of undedicated revenue collected under Transportation Code, sec. 542.4031 to a new general revenue dedicated account, known as the emergency medical air transportation account.

Appropriated funds in this account could be used by the Department of State Health Services to provide funding for emergency medical air transportation. Funds also could be transferred to the Health and Human Services Commission (HHSC) to provide reimbursements to emergency medical air transportation providers under the medical assistance program under Human Resources Code, ch. 32, or to maximize the receipt of federal funds under that program.

This bill would take effect September 1, 2017, and would apply only to revenue collected on or after that date.

SUPPORTERS SAY:

HB 935 would address a critical need for funding in the state's trauma system. Air ambulances serve many patients who are indigent, and many current funding sources such as Texas Medicaid reimburse far below the cost of the service. This drives up costs on other patients.

This bill would resolve this problem by dedicating a specific, consistent funding source that would go to air ambulances directly, to increase Medicaid reimbursement rates for air ambulances, or to draw down certain additional federal matching dollars. Variable appropriations would not provide the needed consistency and reliability.

OPPONENTS SAY:

Dedicated accounts tie the hands of the Legislature by channeling appropriations toward shifting or evolving state priorities and limiting the amount of general revenue over which lawmakers have discretion. The Legislature already can appropriate general revenue to fund emergency medical air transportation if it sees fit, so it does not need to create yet another dedicated account.

NOTES:

According to the Legislative Budget Board, the bill would have a negative fiscal impact of $26.8 million on general revenue related funds in the 2018-19 biennium and in subsequent biennia.

SUBJECT: Establishing the emergency medical services assistance program

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — Price, Sheffield, Burkett, Coleman, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Arévalo, Collier

WITNESSES: For — Anthony Marquardt, Association of Texas EMS Professionals; Jeffrey Mincy and Dudley Wait, Texas EMS Alliance; (*Registered, but did not testify*: Brittany Crandell and Jill Dodson, Association of Texas EMS Professionals; Gavin Massingill, Texas Ambulance Association; Rick Thompson, Texas Association of Counties; Dinah Welsh, Texas EMS, Trauma and Acute Care Foundation; Monty Wynn, Texas Municipal League; Aidan Utzman, United Ways of Texas; Daniel Owens; Jay Propes)

Against — None

On — (*Registered, but did not testify*: Jonathan Huss, Department of State Health Services)

BACKGROUND: Transportation Code, sec. 542.4031 requires 67 percent of the state traffic fines the comptroller receives to be deposited to the undedicated portion of the general revenue fund.

Some observers note that rural areas face shortages of emergency medical services (EMS) professionals and lack EMS training programs that offer flexible training hours or distance learning.

DIGEST: CSHB 1407 would require the Department of State Health Services (DSHS) to create the emergency medical services (EMS) assistance program to provide financial and educational assistance to eligible EMS providers. The program would include grants to eligible EMS providers

and an educational curriculum to provide training to rural EMS personnel.

Funding and issuance of grants. The bill would allow the DSHS commissioner to use money from the EMS and trauma care permanent fund under Government Code, sec. 403.106 to provide grants, in addition to funding available from other sources, to EMS provider applicants or to provide funding to a postsecondary educational institution offering the educational curriculum. The DSHS commissioner would have to ensure at least 60 percent of the grants were provided to EMS providers serving a rural area. DSHS would distribute grants subject to rules adopted by the Health and Human Services Commission (HHSC) executive commissioner.

The bill would require the comptroller to deposit 63.67 percent of the state traffic fines to the undedicated portion of the general revenue fund and 3.33 percent into the permanent fund for emergency medical services and trauma care. If 3.33 percent of state traffic fines received by the comptroller equals more than $3 million, any additional amount would be deposited to the general revenue fund.

Other provisions. DSHS could provide administrative support to the program and could not contract with more than three qualified postsecondary educational institutions to develop and provide the educational curriculum.

Rules. The bill would require the HHSC executive commissioner to adopt rules to implement the bill's provisions, including rules for determining program eligibility and establishing requirements for the educational curriculum provided by a postsecondary educational institution.

Effective date. The bill would take effect September 1, 2017.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 1407 would have a negative impact of $5.3 million to general revenue related funds in fiscal 2018-19 and would cost $2.6 million each year thereafter.

A companion bill, SB 1471 by Seliger, was referred to the Senate Committee on Health and Human Services on March 20.

SUBJECT: Revising procedures for emergency scheduling of certain substances

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

1 absent — Collier

WITNESSES: For — (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Arianna Smith, Combined Law Enforcement Associations of Texas (CLEAT); Bill Kelly, Mayor's Office, City of House; Henry Trochesset, Ricky Scaman, Micah Harmon, AJ Louderback, Sheriffs' Association of Texas; Amanda Martin, Texas Association of Business; Laura Nicholes, Texas Association of Counties; Lee Johnson, Texas Council of Community Centers)

Against — None

On — Karen Tannert, Texas Department of State Health Services; (*Registered, but did not testify*: Jonathan Huss, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 481.0355 allows the Department of Health Services commissioner to emergency schedule a substance as a controlled substance if the commissioner determines it is necessary to avoid an imminent hazard to the public safety. In making a determination about whether a substance poses an imminent hazard to the public safety, the DSHS commissioner must consider twelve factors, including eight that are used in determining whether a substance should be scheduled under non-emergency circumstances.

In 2015, the 84th Legislature passed HB 1212 by Price, which allowed the DSHS commissioner to emergency schedule certain synthetic drugs in coordination with the Department of Public Safety. Certain synthetic

drugs include dangerous chemicals and can cause death or violent behavior for people who use them. Some observers note that DSHS has not been able to emergency schedule these substances as quickly as was intended by HB 1212, and clarification is needed.

DIGEST:

Under HB 2804, the commissioner of the Department of State Health Services would consider four, rather than twelve, factors in determining whether a substance posed an imminent hazard to the public safety and should be emergency scheduled as a controlled substance. These factors would include:

- the scope, duration, symptoms, or significance of abuse;
- the degree of detriment that abuse of the substance may cause;
- whether the substance had been temporarily scheduled under federal law; and
- whether the substance had been temporarily or permanently scheduled under the law of another state.

The change to the determining factors would apply only to a controlled substance emergency scheduled on or after the bill's effective date.

The DSHS commissioner could extend the emergency scheduling of a substance only once, for up to one year, by publishing the extension in the Texas Register. If the DSHS commissioner made an extension, it would take effect immediately, and the commissioner would post notice about each extension on the DSHS website. The changes made to emergency scheduling extensions by HB 2804 would apply to an extension that occurred on or after the bill's effective date, regardless of whether the controlled substance was emergency scheduled before, on, or after that date.

The bill would remove the existing requirement for the DSHS commissioner to consult with the Department of Public Safety regarding the chemical structure of compounds contained in an emergency-scheduled substance.

By December 1 of each even-numbered year, the DSHS commissioner would submit a report about each emergency scheduling action that was

taken during the previous two-year period to the governor, lieutenant governor, speaker of the House of Representatives, and each legislative standing committee with primary jurisdiction over the department as well as each legislative standing committee with primary jurisdiction over criminal justice matters.

The bill would take effect September 1, 2017.

NOTES:

A companion bill, SB 2232 by V. Taylor, was referred to the Senate Criminal Justice committee on March 29.

SUBJECT: Requiring sex offenders who enter school premises to notify officials

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Canales

WITNESSES: For — (*Registered, but did not testify*: Tiana Sanford, Montgomery County District Attorney's Office; Monty Wynn, Texas Municipal League; Kyle Ward, Texas Parent Teacher Association; Thomas Parkinson)

Against — None

BACKGROUND: Code of Criminal Procedure, ch. 62 governs the state's sex offender registration program.

DIGEST: HB 2575 would require individuals who must register as sex offenders to report their presence immediately to the administrative office upon entering a school's premises during standard operating hours. The school office could provide a chaperone while the person was on the premises.

The notification requirement would exist in addition to any requirement associated with the imposition of a child safety zone on a person as a condition of parole, mandatory supervision, or community supervision. It would not apply to an enrolled student or a student from another school participating in a school event.

Prior to the release of a person subject to sex offender registration into the community, and before the person had registered, the bill would require the Texas Department of Criminal Justice or the Texas Juvenile Justice Department to notify the person of his or her duty to notify a school's administrative office immediately upon entering the premises.

A local law enforcement authority designated as a person's primary registration authority that provides the person with a verification form would have to include with it a statement and/or description of that person's duty to provide notice upon entering a school.

The bill would take effect September 1, 2017, and would apply to all offenders required to register, regardless of the date of the offense.

SUPPORTERS SAY:

HB 2575 would give schools a stronger enforcement mechanism to contain individuals who are not currently deterred by existing laws that protect children from sex offenders. The bill would allow for immediate corrective action if the individual entered a campus without notifying the administration. Giving school officials and law enforcement more information about the nature of certain people trying to enter Texas schools would better protect the public.

OPPONENTS SAY:

HB 2575 would place an unnecessary and degrading burden on anyone who must register as a sex offender, without any inquiry as to the circumstances of the offense involved or any subsequent rehabilitation on the part of the individual. It also would be unnecessary because any person entering a school must make himself or herself known to the administration, regardless of criminal history.

SUBJECT: Requiring licenses for persons advertising for structural pest control

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 5 ayes — Kuempel, Guillen, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

1 present not voting — Goldman

WITNESSES: For — Don Ward, Texas Pest Control Association; (*Registered, but did not testify*: Dale Burnett, Burnett's Pest Services; Todd Kercheval, Texas Pest Control Association)

Against — None

On — (*Registered, but did not testify*: Leslie Smith, Texas Department of Agriculture)

BACKGROUND: Occupations Code, ch. 1951 governs the Structural Pest Control Act. The act provides that a person is engaged in the business of structural pest control if that person advertises, solicits, performs, or offers to perform one of several listed services for compensation, including services performed as part of the person's employment. Clerical employees and manual laborers are not considered to be engaged in the business as long as they do not identify pests; make or provide inspections, recommendations, estimates, bids, or contracts; or apply certain pest-control substances regulated by the Texas Department of Agriculture (TDA). TDA is required to develop standards and criteria for issuing structural pest control licenses to businesses and individuals engaged in the structural pest control business.

Some have suggested that TDA's ability to take administrative action should be strengthened in cases in which individuals are advertising and

contracting for pest control services without a pest control license and the required training, criminal background checks, and insurance.

DIGEST:

CSHB 1586 would establish that a person was required to hold a license if the person advertised or solicited to perform, performed, or offered to perform any of the following services:

- identifying infestations;
- making oral or written inspection reports, recommendations, estimates, or bids regarding an infestation; or
- making contracts or submitting bids based on an inspection or performing certain pest-control services.

Clerical employees and manual laborers would not be engaged in the business as long as they were not advertising or soliciting to perform any of these services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to conduct that occurred on or after the effective date.

NOTES:

A companion bill, SB 1393 by Estes, was considered in a public hearing of the Senate Business and Commerce Committee on May 2 and left pending.

SUBJECT: Creating a certain measure for CHIP and Medicaid regarding HIV

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Coleman, Collier

WITNESSES: For — Januari Leo, Legacy Community Health; (*Registered, but did not testify*: Anne Dunkelberg, Center for Public Policy Priorities; Reginald Smith, Communities for Recovery; Bill Kelly, City of Houston Mayor's Office; Marilyn Doyle, Texas Medical Association; Thomas Parkinson)

Against — None

On — Janna Zumbrun, Department of State Health Services; (*Registered, but did not testify*: Andy Vasquez, Health and Human Services Commission)

BACKGROUND: Some suggest that it is important for people living with HIV to maintain a low viral load in their blood in order to reduce transmission and improve health.

DIGEST: HB 1629 would require the Health and Human Services Commission (HHSC) to coordinate with the Department of State Health Services (DSHS) to develop and implement a quality-based outcome measure to annually measure the percentage of Children's Health Insurance Program enrollees or Medicaid recipients with HIV infection, regardless of age, whose most recent test indicates a viral load of less than 200 copies per milliliter of blood.

HHSC and DSHS would be required to implement the measure as soon as practicable.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES: A companion bill, SB 2126 by Zaffirini, was referred to the Senate Health and Human Services Committee on March 28.

SUBJECT: Allowing students who participate in Special Olympics to earn a letter

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Margaret Larsen, Special Olympics Texas; Nathan Van Nostrand; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Katija Gruene, Green Party of Texas; Will Francis, National Association of Social Workers, Texas Chapter; Seth Rau, San Antonio ISD; Ted Melina Raab, Texas AFT (American Federation of Teachers); Courtney Boswell and Houston Tower, Texas Aspires; Barry Haenisch, Texas Association of Community Schools; Paige Williams, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Portia Bosse, Texas State Teachers Association; Dwight Harris, Texas AFT; Joey Gidseg)

Against — None

On — (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

DIGEST: CSHB 1645 would require school districts that allow high school students to earn letters for academic, athletic, or extracurricular activities to allow high school students who participate in the Special Olympics to earn a letter.

The bill would take immediate effect if finally passed by a two-thirds vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-2018 school year.

SUBJECT: Changing the applicability of the Texas Lemon Law

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Morrison, Martinez, Burkett, Y. Davis, Goldman, Minjarez, Phillips, Pickett, Simmons, E. Thompson, S. Thompson, Wray

0 nays

1 absent — Israel

WITNESSES: For — (*Registered, but did not testify*: Jim Grace, CenterPoint Energy)

Against — None

On — (*Registered, but did not testify*: William Harbeson, Texas Department of Motor Vehicles)

BACKGROUND: Occupations Code, ch. 2301, subch. M provides that owners of vehicles have certain rights under certain warranties that may apply to new vehicles. Sec. 2301.604 provides that manufacturers or distributors must replace or accept the return of a new vehicle that has a nonconformity with an express warranty after a "reasonable number of attempts" to repair. This is sometimes referred to as a "Lemon Law."

Sec. 2301.605 establishes the criteria for what constitutes a rebuttable presumption that a reasonable number of attempts have been made to rectify certain conditions to meet the standards in an express warranty. For defects that are nonconformities with an express warranty, a reasonable number of attempts is presumed to have been undertaken if the nonconformity persists after the vehicle is subject to repair four or more times, and:

- two of the repair attempts were made in the first 12 months or 12,000 miles, whichever was first; and
- the second two repair attempts were made in the 12 months or 12,000 miles that immediately followed the date of the second

repair attempt.

For defects that are serious safety hazards, a reasonable number of attempts is presumed to have been undertaken if the defect persists after being subject to repair at least twice, and:

- at least one of the repair attempts was made in the first 12 months or 12,000, whichever was first; and
- the second attempt was made in the 12 months or 12,000 miles which immediately followed the date of the first repair attempt.

For defects that substantially impair the vehicle's use or market value, a reasonable number of attempts is presumed to have been undertaken if:

- it causes the vehicle to be out of service for a cumulative total of 30 or more days in the first 24 months or 24,000 miles, whichever occurs first; and
- at least two repair attempts were made in the first 12 months or 12,000 miles.

DIGEST:

CSHB 2070 would change the criteria for what constitutes a "reasonable number of attempts" to repair vehicle defects. For each of the three types of defects recognized in Occupations Code, sec. 2301.605 — nonconformity with an express warranty, serious safety hazards, and impairments to the vehicle's use or market value — the number of required repair attempts to be considered reasonable would be the same as in current law.

However, instead of having different criteria for each defect regarding when the repair attempts must be made, the bill would provide that the presumption would exist if the required repair attempts were made either before the warranty expired, or within the first 24 months or 24,000 miles, whichever is earlier, for all three of the types of defects.

The bill also would allow notices relating to a nonconformity under these provisions to be provided electronically, rather than requiring that they be mailed.

This bill would take effect September 1, 2017, and would apply to a new vehicle sold or leased after that date.

SUBJECT: Changing requirements for certain food and beverage certification

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

WITNESSES: For —Jason Cooper, Brookshire Grocery Company; Roger Kaplan; (*Registered, but did not testify*: Mike Hamilton, Brinkr International; John Gessner, Front Burner Restaurants, LP; Nelson Nease, Texas Craft Brewers Guild; Brian Sullivan, Texas Hotel and Lodging Association; Monty Wynn, Texas Municipal League; Jim Sheer, Texas Retailers Association; Morris Wilkes, United Supermarkets)

Against — None

On — (*Registered, but did not testify*: Amy Harrison, Texas Alcoholic Beverage Commission)

BACKGROUND: Alcoholic Beverage Code, secs. 25.13, 28.18, 32.23, and 69.16 set the requirements for retailers permitted to sell alcohol to hold a food and beverage certificate. Retailers who sell wine and beer or mixed beverages, private clubs, and on-premise retail dealers who wish to sell food must:

- derive 50 percent or less of their profits from sale of alcohol;
- maintain food service facilities; and
- pay a fee to cover the cost of issuing the certificate.

The Texas Alcoholic Beverage Commission (TABC) may impose a fine up to $5,000 on holders of a wine and beer retailer's permit or retail dealer's on-premise license who are in violation of these requirements. TABC may cancel these permit and license holders' food and beverage certificate at any time if they are found to violate the 50 percent

requirement.

When TABC receives an application for renewal of a mixed beverage or private club registration permit who holds a food and beverage certificate, TABC must request certification from the comptroller that the holder is in compliance with the 50 percent requirement. Without such certification from the comptroller, TABC may not renew the certificate.

Given the increasing popularity of higher-priced craft beer and premium alcohol served at establishments in the state, some have raised concerns that gross sales of alcohol at some of these restaurants could rise above the 50 percent maximum threshold allowed under state law, making them ineligible for a food and beverage certificate.

DIGEST:

CSHB 2101 would increase the maximum alcohol profit threshold that alcohol retailers must meet in order to hold a food and beverage certificate from 50 percent to 60 percent. The bill would specify that the Texas Alcoholic Beverage Commission (TABC) must determine whether the business derives 60 percent or less of its profits from the sale of alcohol.

For purposes of this calculation, the bill would define "location" to mean the designated physical address of the retailer, including all areas at the address where the certificate holder may serve alcoholic beverages for immediate consumption.

The bill also would remove TABC's authority to impose a fine up to $5,000 on holders of a wine and beer retailer's permit or retail dealer's on-premise license who are in violation of these requirements.

The bill would specify that in order to comply with the requirements for food and beverage certification, retailers of alcoholic beverages must maintain permanent food service facilities to prepare food for consumption at the retailer's location.

The bill would specify that any alcohol retailer whose food and beverage certificate was canceled or denied renewal could not reapply for a certificate until one year after the certificate was canceled or denied. If a mixed beverage permit holder authorized to sell food by a local election

that legalized the sale of mixed beverages by food and beverage certificate holders only were denied renewal, the certificate would be canceled by operation of law.

The bill would take effect September 1, 2017, and would apply only to an application for food and beverage certificate filed on or after that date. TABC would be required to adopt the rules necessary to implement this act as soon as practicable.

SUBJECT: Removing lifeline program requirement for certain phone companies

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Cook, Giddings, Craddick, Farrar, Guillen, K. King, Kuempel, Meyer, Oliveira, Paddie, E. Rodriguez, Smithee

0 nays

1 absent — Geren

WITNESSES: For — Bob Digneo, AT&T

Against — None

On — (*Registered, but did not testify*: Brian Lloyd, Public Utility Commission of Texas)

BACKGROUND: The Lifeline Service program provides a discount on phone service for low-income consumers. Some suggest that due to recent decreases in landline phone use, it may not be necessary for the state to require a deregulated incumbent local exchange company (AT&T) to offer the Lifeline Service program.

DIGEST: HB 2370 would remove the requirement that a deregulated incumbent local exchange company provide the Lifeline Service program.

NOTES: A companion bill, SB 1003 by Hancock, was reported favorably from the Senate Committee on State Affairs on May 1.

SUBJECT: Adjusting regulation of bingo on fee refunds, worker qualifications

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Kuempel, Frullo, Geren, Goldman, Herrero, Paddie, S. Thompson

0 nays

2 absent — Guillen, Hernandez

WITNESSES: For — Steve Bresnen, Bingo Interest Group; (*Registered, but did not testify*: Tom Stewart, Texas Charity Advocates; Roy Grona, Texas VFW)

Against — None

On — (*Registered, but did not testify*: Alfonso Royal III, Texas Lottery Commission)

BACKGROUND: Occupations Code, ch. 2001 establishes the Bingo Enabling Act, which includes setting license fees for commercial lessors, manufacturers, distributors, and unit managers and others involved in bingo activities.

Sec. 2001.057 allows the Texas Lottery Commission to appoint a bingo advisory committee consisting of nine members, including members of the public, charities that operate bingo games, and commercial and charity lessors that participate in the bingo industry.

Sec. 2001.103 allows an authorized organization to receive a temporary license to conduct bingo by filing an application accompanied by a $25 license fee with the Texas Lottery Commission.

Some have called for provisions relating to refunds on licensing and registration fees, regulations on bingo workers, remittances on prizes and the establishment of a bingo advisory committee to be revised to clarify and reform existing laws.

DIGEST:

HB 2577 would make several changes to bingo regulations.

Bingo advisory committee. The bill would require, rather than allow as provided under current law, the Texas Lottery Commission (TLC) to appoint a bingo advisory committee.

Refunds. The bill would require TLC to refund, on request, the $25 temporary bingo license fee if the organization withdrew the license application or had not used the license within the first year of its issuance. The license would have to be refunded within 30 days of TLC receiving the request. TLC could retain up to 50 percent of the fee to defray administration costs.

TLC would be required to refund the fee for initial or renewal licenses for bingo conductors, commercial lessors, manufacturers, distributors, unit managers, or for amending a license issued under the Bingo Enabling Act if an applicant withdrew an application before the license was issued or if the application was denied.

The bill also would require TLC to refund a fee submitted for an initial or renewal license for inclusion in the approved bingo workers registry if the applicant withdrew the application or if the application to be listed in the registry was denied.

In each case, the refund would be due within 30 days of the request or TLC's denial of the application. TLC could retain an amount to defray administrative costs for processing the application, which would be no more than 50 percent of the license fee for the registry and for amending a license; the lesser of 50 percent of a fee or $150 for the licenses to conduct bingo or for commercial lessors and unit managers; or a reasonable amount of the fee as set by TLC for manufacturers and distributors.

Bingo employees. The bill would repeal a provision requiring TLC to adopt rules and guidelines to comply with general Occupations Code provisions regarding the use of criminal record information to issue or renew a bingo license or for listing of individuals in the registry of approved bingo workers. The bill also would start the current 14-day window in which a bingo organization can employ someone not on the

bingo workers registry on the date when TLC received a worker's application to be placed on the registry.

Remittance on prizes. The bill would require that the 5 percent prize commission fee apply only to prizes of more than $5, and would apply to the collection of a bingo prize fee awarded after October 1, 2017.

Pull-tabs. The bill would allow an organization that in one day sells pull-tab bingo tickets in consecutive bingo occasions to report all of the sales for the occasions as sales on the final occasion.

The bill would take effect September 1, 2017, and would apply only to applications and fees submitted on or after the effective date.

NOTES: According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined at this time; however, it is anticipated there would be a negative impact to state and local government revenue.

SUBJECT: Abolishing certain fees to conduct charitable bingo

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

WITNESSES: For — Steve Bresnen, Bingo Interest Group; (*Registered, but did not testify*: Tom Stewart, Texas Charity Advocates; Roy Grona, Texas VFW)

Against — None

On — (*Registered, but did not testify*: Alfonso Royal III, Texas Lottery Commission)

BACKGROUND: The Bingo Enabling Act (Occupations Code, ch. 2001) regulates charitable bingo. Sec. 2001.502 requires that a licensed authorized organization provide the Texas Lottery Commission a fee of 5 percent of the amount or value of all bingo prizes awarded. The commission must deposit the fee revenue into a special account in the general revenue fund, disburse it to the local jurisdictions entitled to a share, and transfer the remaining amount to the general revenue fund.

Currently, the costs of administering the Bingo Enabling Act are in part borne by license fees paid by the organizations conducting charitable bingo. Concerns have been raised that the charitable bingo revenue going to the state and local governments equals or exceeds the amount going to the organizations conducting charitable bingo, increasing their operational costs and reducing charitable proceeds.

DIGEST: CSHB 2578 would eliminate certain licensing fees required to conduct charitable bingo, including fees for initial licenses, renewals, and temporary licenses. By January 1, 2018, the Texas Lottery Commission

would have to return any portion of a fee paid in 2016 that was attributable to the license holder's period of licensure on or after September 1, 2017.

The bill also would create the bingo administration account, which would be a special fund in the treasury outside the general revenue fund used to administer the Bingo Enabling Act. The account would consist of commercial lessor license fees, manufacturer's license fees, distributor's license fees, any other money paid to commission for the purpose of administering charitable bingo, grants and donations, and interest.

Revenue collected from the fee imposed on bingo prizes would be deposited into the bingo administration account, which would be used to pay local shares of prize fees. CSHB 2578 would reduce the share of prize fees to which local jurisdictions would be entitled on a pro rata basis as needed to retain an amount necessary to administer the Bingo Enabling Act for the state fiscal year, less the amount of license fees estimated to be deposited into the bingo administration account for that year. Interest accrued on funds in the bingo administration account would not be subject to distribution to local jurisdictions.

The bill would take effect September 1, 2017, and provisions relating to certain abolished fees would apply to the issuance of a license that occurred on or after that date. The provisions of the bill related to the bingo administration account would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 2578 would have a negative impact to general revenue related funds of $6.5 million through fiscal 2018-19 and would cost the state $16.6 million each fiscal year thereafter.